

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO**

MICHAEL EDELSON, derivatively and on  
behalf of MERIDIAN BIOSCIENCE, INC.,

Plaintiff,

v.

JOHN A. KRAEUTLER, JAMES M.  
ANDERSON, DAVID C. PHILLIPS,  
DWIGHT E. ELLINGWOOD, JOHN C.  
MCILWRAITH, CATHERINE A.  
SAZDANOFF, and MELISSA A. LUEKE,

Defendants,

-and-

MERIDIAN BIOSCIENCE, INC., an Ohio  
Corporation,

Nominal Defendant.

Case No. 1:17-cv-00825-SJD

Judge Susan J. Dlott

Magistrate Stephanie K. Bowman

**PLAINTIFF’S UNOPPOSED MOTION FOR VOLUNTARY DISMISSAL WITHOUT  
PREJUDICE PURSUANT TO FED. R. CIV. P. 23.1(c) and 41(a)**

Plaintiff, Michael Edelson (“Plaintiff”), through his undersigned counsel of record, states as follows:

WHEREAS, the above-captioned action was filed in this Court on December 6, 2017 (the “Action”), and was brought derivatively on behalf of Nominal Defendant, Meridian Bioscience, Inc. (“Meridian,” or the “Company”);

WHEREAS, the Action asserts claims against certain current and/or former officers and directors of Meridian (the “Individual Defendants”) for violation of Section 14(a) of the Exchange Act, 15 U.S.C. § 78n(a), breaches of fiduciary duties, unjust enrichment, and waste of corporate assets, derivatively on behalf of the Company;

WHEREAS, neither Meridian nor the Individual Defendants (collectively, “Defendants”) have answered the complaint filed in the Action or moved for summary judgment;

WHEREAS, following careful consideration, Plaintiff has elected to voluntarily dismiss this Action without prejudice. Counsel for Plaintiff and Defendants have met and conferred regarding this Action, and agree that all parties will bear their own costs and fees upon Plaintiff’s voluntary dismissal of this Action without prejudice. No payment has been made, nor will one be made, to Plaintiff or his attorneys for this dismissal;

WHEREAS, under Federal Rule of Civil of Procedure 41(a)(1)(A)(i), Plaintiff is entitled to dismiss this Action by filing “a notice of dismissal before the opposing party serves either an answer or a motion for summary judgment . . . ”;

WHEREAS, Federal Rule of Civil Procedure 23.1(c) provides, in relevant part, “[a] derivative action may be settled, voluntarily dismissed, or compromised only with the court’s approval . . . ”;

WHEREAS, notice of the voluntary dismissal is not required in this instance because: (i) no payment has been made to any party or their counsel in connection with the voluntary dismissal; (ii) the voluntary dismissal is made without prejudice and therefore will not have any preclusive effect on any other action; (iii) Defendants will not suffer any prejudice as they have indicated they do not oppose this voluntary dismissal; and (iv) there is no trace of collusion or any other improper motivation underlying this voluntary dismissal; and

THEREFORE, Plaintiff, through his undersigned counsel, hereby requests the Court enter an order dismissing this Action without prejudice, with all parties to bear their own costs and fees.

Respectfully submitted,

DATED: October 2, 2019

**JOHNSON FISTEL, LLP**

*s/ Kristen L. O'Connor*

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KRISTEN L. O'CONNOR

Frank J. Johnson  
655 West Broadway, Suite 1400  
San Diego, CA 92101  
Telephone: (619) 230-0063  
Facsimile: (619) 255-1856  
Email: kristeno@johnsonfistel.com  
frankj@johnsonfistel.com

**JOHNSON FISTEL, LLP**

Michael I. Fistel, Jr.  
Murray House  
40 Powder Springs Street  
Marietta, GA 30064  
Telephone: (470) 632-6000  
Facsimile: (770) 200-3101  
Email: michaeli@johnsonfistel.com

*Lead Counsel for Plaintiff*

**THE LAWRENCE FIRM, PSC**

Lindsay A. Lawrence (0085880)  
606 Philadelphia Street  
Covington, KY 41011  
Telephone: (859) 578-9130  
Facsimile: (859) 578-1032  
lindsay.lawrence@lawrencefirm.com

*Liaison Counsel for Plaintiff*

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing has been filed electronically with the Clerk of the Court using the CM/ECF system, which will send notice to all counsel of record.

*s/ Kristen L. O'Connor*

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KRISTEN L. O'CONNOR